

LAND BANK OF THE PHILIPPINES PETITIONER, VS. SPOUSES PLACIDO ORILLA AND CLARA DY ORILLA, RESPONDENTS.

G.R. No. 157206. June 27, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

"Without doubt, justice is the supreme need of man. Man can endure without food for days, but if he is deprived even with the least injustice, he can be that violent to give up his life for it. History will tell us that many great nations had emerged in the past, yet they succumbed to downfall when their leaders had gone so immorally low that they could not anymore render justice to their people. In our times, we are witnesses to radical changes in our society rooted on alleged injustice. The only hope is in the courts as the last bulwark of democracy being the administrator of justice and the legitimate recourse of their grievances." [1]

The Facts

This is an appeal via a petition [2] for review on certiorari under Rule 45 of the Rules of Court of the Decision [3] of the Court of Appeals dated July 29, 2002 in CA-G.R. SP No. 63691 entitled "Land Bank of the Philippines v. Hon. Venancio J. Amila, in his capacity as Presiding Judge, Regional Trial Court, Branch 3, Tagbilaran City, Spouses Placido Orilla and Clara Dy Orilla." Said Decision affirmed the Order [4] dated December 21, 2000 of the Regional Trial Court (RTC), Branch 3, Tagbilaran City, sitting as a Special Agrarian Court (SAC) in Civil Case No. 6085.

Spouses Placido and Clara Orilla (respondents) were the owners of Lot No. 1, 11-12706, situated in Bohol, containing an area of 23.3416 hectares and covered by Transfer Certificate of Title No. 18401. In the latter part of November 1996, the Department of Agrarian Reform Provincial Agrarian Reform Office (DAR-PARO) of Bohol sent respondents a Notice of Land Valuation and Acquisition dated November 15, 1996 informing them of the compulsory acquisition of 21.1289 hectares of their landholdings pursuant to the Comprehensive Agrarian Reform Law (Republic Act [RA] 6657) for P371,154.99 as compensation based on the valuation made by the Land Bank of the Philippines (petitioner).

Respondents rejected the said valuation. Consequently, the Provincial Department of Agrarian Reform Adjudication Board (Provincial DARAB) conducted a summary hearing on the amount of just compensation. Thereafter, the Provincial DARAB affirmed the valuation made by the petitioner.

Unsatisfied, respondents filed an action for the determination of just compensation before the Regional Trial Court (as a Special Agrarian Court [SAC]) of Tagbilaran City. The case was docketed as Civil Case No. 6085 and was raffled to Branch 3.

After trial on the merits, the SAC rendered a Decision [5] dated November 20, 2000, the dispositive portion of which reads -

WHEREFORE, judgment is hereby rendered fixing the just compensation of the land of petitioner subject

matter of the instant action at P7.00 per square meter, as only prayed for, which shall earn legal interest from the filing of the complaint until the same shall have been fully paid. Furthermore, respondents are hereby ordered to jointly and solidarily indemnify the petitioners their expenses for attorney's fee and contract fee in the conduct of the appraisal of the land by a duly licensed real estate appraiser Angelo G. Fajardo of which petitioner shall submit a bill of costs therefor for the approval of the Court.

SO ORDERED.[6]

On December 11, 2000, petitioner filed a Notice of Appeal.[7] Subsequently, on December 15, 2000, respondents filed a Motion for Execution Pending Appeal[8] pursuant to Section 2, Rule 39 of the 1997 Rules of Civil Procedure and the consolidated cases of "Landbank of the Philippines v. Court of Appeals, et al." [9] and "Department of Agrarian Reform v. Court of Appeals, et al." [10] Respondents claimed that the total amount of P1,479,023.00 (equivalent to P7.00 per square meter for 21.1289 hectares), adjudged by the SAC as just compensation, could then be withdrawn under the authority of the aforementioned case.

Meanwhile, on December 18, 2000, the DAR filed its own Notice of Appeal[11] from the SAC Decision dated November 20, 2000. The DAR alleged in its Notice that it received a copy of the SAC Decision only on December 6, 2000.

On December 21, 2000, the SAC issued an Order[12] granting the Motion for Execution Pending Appeal, the decretal portion of which reads -

WHEREFORE, the herein motion is granted and the petitioners are hereby ordered to post bond equivalent to one-half of the amount due them by virtue of the decision in this case. The respondent Land Bank of the Philippines, is therefore, ordered to immediately deposit with any accessible bank, as may be designated by respondent DAR, in cash or in any governmental financial instrument the total amount due the petitioner-spouses as may be computed within the parameters of Sec. 18(1) of RA 6657. Furthermore, pursuant to the Supreme Court decisions in "Landbank of the Philippines vs. Court of Appeals, et al." G.R. No. 118712, promulgated on October 6, 1995 and "Department of Agrarian Reform vs. Court of Appeals, et al.," G.R. No. 118745, promulgated on October 6, 1995, the petitioners may withdraw the same for their use and benefit consequent to their right of ownership thereof.[13]

On December 25, 2000, respondents filed a Motion for Partial Reconsideration[14] of the amount of the bond to be posted, which was later denied in an Order[15] dated January 11, 2001.

Petitioner filed a Motion for Reconsideration[16] on December 27, 2000, which was likewise denied in an Order[17] dated December 29, 2000.

On March 13, 2001, petitioner filed with the Court of Appeals a special civil action[18] for certiorari and prohibition under Rule 65 of the Rules of Court with prayer for issuance of a temporary restraining order and/or preliminary injunction. It questioned the propriety of the SAC Order granting the execution pending appeal. Respondents and the presiding judge of the SAC, as nominal party, filed their respective comments[19] on the petition.

In its Decision dated July 29, 2002, the Court of Appeals dismissed the petition on the ground that the assailed SAC Order dated December 21, 2000 granting execution pending appeal was consistent with justice, fairness, and equity, as respondents had been deprived of the use and possession of their property pursuant to RA 6657 and are entitled to be immediately compensated with the amount as determined by the SAC under the principle of "prompt payment" of just compensation.

Petitioner filed a Motion for Reconsideration of the Court of Appeals Decision, but the same was denied in a Resolution dated February 5, 2003. Hence, this appeal.

Petitioner anchors its petition on the following grounds:

- THE COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE RESPONDENTS WERE ENTITLED TO EXECUTION PENDING APPEAL OF THE COMPENSATION FIXED BY THE SAC BASED ON THE PRINCIPLE OF PROMPT PAYMENT OF JUST COMPENSATION, EVEN THOUGH THE PRINCIPLE OF PROMPT PAYMENT IS SATISFIED BY THE PAYMENT AND IMMEDIATE RELEASE OF THE PROVISIONAL COMPENSATION UNDER SECTION 16(E) OF RA 6657, UPON SUBMISSION OF THE LEGAL REQUIREMENTS, IN ACCORDANCE WITH THE RULING OF THIS HONORABLE COURT IN THE CASE OF "LAND BANK OF THE PHILIPPINES V. COURT OF APPEALS, PEDRO L. YAP, ET AL.," G.R. NO. 118712, OCTOBER 6, 1995 AND JULY 5, 1996, AND NOT BY EXECUTION PENDING APPEAL OF THE COMPENSATION FIXED BY THE SAC.
- THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN UPHOLDING THE SAC ORDER FOR EXECUTION PENDING APPEAL WHICH WAS ISSUED WITHOUT ANY GOOD REASON RECOGNIZED UNDER EXISTING JURISPRUDENCE AND PROPER HEARING AND RECEPTION OF EVIDENCE IN VIOLATION OF SECTION 2(A), RULE 39 OF THE RULES OF COURT.

For its first ground, petitioner asserts that, according to our ruling in *Land Bank of the Philippines v. Court of Appeals*,^[20] the principle of "prompt payment" of just compensation is already satisfied by the concurrence of two (2) conditions: (a) the deposits made by petitioner in any accessible bank, equivalent to the DAR/LBP valuation of the expropriated property as provisional compensation, must be in cash and bonds as expressly provided for by Section 16(e) of RA 6657, not merely earmarked or reserved in trust; and (b) the deposits must be immediately released to the landowner upon compliance with the legal requirements under Section 16^[21] of RA 6657, even pending the final judicial determination of just compensation.

Anent the second ground, petitioner argues that the good reasons cited by the SAC, as affirmed by the Court of Appeals, namely: "(1) that execution pending appeal would be in consonance with justice, fairness, and equity considering that the land had long been taken by the DAR; (2) that suspending the payment of compensation will prolong the agony that respondents have been suffering by reason of the deprivation of their property; and (3) that it would be good and helpful to the economy" are not valid reasons to justify the execution pending appeal, especially because the execution was granted without a hearing.

This appeal should be denied.

As the issues raised are interrelated, they shall be discussed jointly.

Execution of a judgment pending appeal is governed by Section 2(a) of Rule 39 of the Rules of Court, to wit:

SEC. 2. Discretionary execution. -

(a) Execution of a judgment or a final order pending appeal. -- On motion of the prevailing party with notice to the adverse party filed in the trial court while it has jurisdiction over the case and is in possession of either the original record or the record on appeal, as the case may be, at the time of the filing of such motion, said court may, in its discretion, order execution of a judgment or final order even before the expiration of the period to appeal.

x x x

Discretionary execution may only issue upon good reasons to be stated in a special order after due hearing.

As provided above, execution of the judgment or final order pending appeal is discretionary. As an exception to the rule that only a final judgment may be executed, it must be strictly construed. Thus, execution pending appeal should not be granted routinely but only in extraordinary circumstances.

The Rules of Court does not enumerate the circumstances which would justify the execution of the judgment or decision pending appeal. However, we have held that "good reasons" consist of compelling or superior circumstances demanding urgency which will outweigh the injury or damages suffered should the losing party secure a reversal of the judgment or final order. The existence of good reasons is what confers discretionary power on a court to issue a writ of execution pending appeal. These reasons must be stated in the order granting the same. Unless they are divulged, it would be difficult to determine whether judicial discretion has been properly exercised.[22]

In this case, do good reasons exist to justify the grant by the SAC of the motion for execution pending appeal? The answer is a resounding YES.

The expropriation of private property under RA 6657 is a revolutionary kind of expropriation,[23] being a means to obtain social justice by distributing land to the farmers, envisioning freedom from the bondage to the land they actually till. As an exercise of police power, it puts the landowner, not the government, in a situation where the odds are practically against him. He cannot resist it. His only consolation is that he can negotiate for the amount of compensation to be paid for the property taken by the government. As expected, the landowner will exercise this right to the hilt, subject to the limitation that he can only be entitled to "just compensation." Clearly therefore, by rejecting and disputing the valuation of the DAR, the landowner is merely exercising his right to seek just compensation.[24]

In this case, petitioner valued the property of respondents at P371,154.99 for the compulsory acquisition of 21.1289 hectares of their landholdings. This amount respondents rejected. However, the same amount was affirmed by the DAR after the conduct of summary proceedings. Consequently, respondents brought the matter to the SAC for the determination of just compensation. After presentation of evidence from both parties, the SAC found the valuation of the LBP and the DAR too low and pegged the "just compensation" due the respondents at P7.00 per square meter, or a total of P1,479,023.00 for the 21.1289 hectares. In determining such value, the SAC noted the following circumstances:

- the nearest point of the land is about 1.5 kilometers from Poblacion Ubay;
- the total area of the land based on the sketch-map presented by the MARO is 23.3416 hectares.
- the land is generally plain, sandy loam, without stones, rocks or [pebbles];
- the land is adjoining the National Highway of Ubay-Trinidad, Bohol;
- 11.4928 hectares of the land is devoted to planting rice, which portion is rain-fed and produces 60-80 cavans of rice per hectare with two (2) harvest seasons a year;
- four (4) hectares is planted with 210 fruit-bearing coconut trees, which private respondents used to receive a share of P1,500.00 per harvest four (4) times a year;
- five (5) hectares is cogonal but now most area is planted with cassava;
- the area is traversed with electricity providing electric power to some occupants;
- across the National Highway, about 200 meters away from the landholding, is an irrigation canal of the National Irrigation Administration (NIA);
- the Ubay Airport is about two (2) kilometers from the landholding;
- fruit trees like mangoes and jackfruits were also planted on the property;
- north of the landholding, about a kilometer away, is the seashore;

- the market value of the land per Tax Declaration No. 45-002-00084 is P621,310.00 for the entire 23.2416 hectares but representing only 48% of the actual value of the property;
- that the real estate appraiser Angelo Z. Fajardo appraised the land at P80,000.00 per hectare for the Riceland and P30,000.00 for all other portions thereof;
- testimony of the representative from petitioner that the factors considered in the appraisal of land are the cost of acquisition of the land, the current value, its nature, its actual use and income, the sworn valuation of the owner, and the assessment by the government functionary concerned;
- petitioner's contention that the main basis for the valuation it made was the very low price that the petitioners had paid for the land when they acquired it along with other parcels from the Development Bank of the Philippines in a foreclosure sale;
- the testimony of the Municipal Agrarian Reform Officer for DAR that it was contemplated that the property be disposed to farmer-beneficiaries at a relatively higher price; and
- the fact that Ubay town is a fast-growing municipality being a consistent recipient of government projects and facilities in view of its natural resources and favorable geographical location--Bohol Circumferential Road Improvement Project Phase I, the Leyte-Bohol Interconnection Project Phase I, the Ilaya Reservoir Irrigation Project, the Metro San Pascual Rural and Waterworks System, the 250-hectare Central Visayas Coconut Seeds Production Center, the Philippine Carabao Center at the Ubay Stock Farm, and several other public and private business facilities.[25]

In light of these circumstances, the SAC found that the valuation made by petitioner, and affirmed by the DAR, was unjustly way below the fair valuation of the landholding at the time of its taking by the DAR. The SAC, mindful also of the advanced age of respondents at the time of the presentation of evidence for the determination of just compensation, deemed it proper to grant their motion for execution pending appeal with the objective of ensuring "prompt payment" of just compensation.

Contrary to the view of petitioner, "prompt payment" of just compensation is not satisfied by the mere deposit with any accessible bank of the provisional compensation determined by it or by the DAR, and its subsequent release to the landowner after compliance with the legal requirements set by RA 6657.

Constitutionally, "just compensation" is the sum equivalent to the market value of the property, broadly described as the price fixed by the seller in open market in the usual and ordinary course of legal action and competition, or the fair value of the property as between the one who receives and the one who desires to sell, it being fixed at the time of the actual taking by the government.[26] Just compensation is defined as the full and fair equivalent of the property taken from its owner by the expropriator. It has been repeatedly stressed by this Court that the true measure is not the taker's gain but the owner's loss. The word "just" is used to modify the meaning of the word "compensation" to convey the idea that the equivalent to be given for the property to be taken shall be real, substantial, full, and ample.[27]

The concept of just compensation embraces not only the correct determination of the amount to be paid to the owners of the land, but also payment within a reasonable time from its taking. Without prompt payment, compensation cannot be considered "just" inasmuch as the property owner is made to suffer the consequences of being immediately deprived of his land while being made to wait for a decade or more before actually receiving the amount necessary to cope with his loss.[28]

Put differently, while prompt payment of just compensation requires the immediate deposit and release to the landowner of the provisional compensation as determined by the DAR, it does not end there. Verily, it also encompasses the payment in full of the just compensation to the landholders as finally determined by the courts.

Thus, it cannot be said that there is already prompt payment of just compensation when there is only a partial payment thereof, as in this case.

While this decision does not finally resolve the propriety of the determination of just compensation by the SAC in view of the separate appeal on the matter, we find no grave abuse of discretion on the part of the SAC judge in allowing execution pending appeal. The good reasons cited by the SAC--that it would be in consonance with justice, fairness, and equity, and that suspending payment will prolong the agony of respondents suffered due to the deprivation of their land--are eloquently elucidated in the Comment filed by SAC Judge Venancio J. Amila, as nominal party, on the petition for certiorari and prohibition of petitioner before the Court of Appeals, viz.:

In addition to the Comment of private respondents, through counsel Hilario C. Baril, which the undersigned has just received a copy today, it is well to state here that respondent Placido Orilla is already an old man just as his wife. The appealed Decision will show that Orilla was already 71 years old at the time he testified in this case and the transcripts would further show that the money that he used in buying the DBP foreclosed property herein subject of compulsory acquisition by the DAR came from his retirement benefits evidently thinking that his investment would afford him security and contentment in his old age. But, luckily or unluckily, the land was taken from him by the DAR at a price so low that he could not swallow, thus, he brought the issue to court. Yet, all along, the land has been under the enjoyment of farmer-beneficiaries without him yet being paid therefor. In the mind of the Court, if payment for the land would be delayed further, it would not be long that death would overtake him. What a misfortune to his long years of service to acquire that hard-earned savings only to be deprived therefrom at the time when he needed it most.[29]

The SAC, aware of the protracted proceedings of the appeal of its November 20, 2000 Decision, but without imputing any dilatory tactics on the part of petitioner, thus deemed it proper, in its sound discretion, to grant the execution pending appeal. Moreover, the execution of the judgment of the SAC was conditioned on the posting of a bond by the respondents, despite pleas to reduce the same, in the amount of one-half of the just compensation determined by the said court or P739,511.50.

To reiterate, good reasons for execution pending appeal consist of compelling or superior circumstances demanding urgency which will outweigh the injury or damages suffered should the losing party secure a reversal of the judgment or final order. In the case at bar, even with the procedural flaw in the SAC's grant of execution without a hearing, the injury that may be suffered by respondents if execution pending appeal is denied indeed outweighs the damage that may be suffered by petitioner in the grant thereof. As correctly pointed out by respondents, the reversal of the November 20, 2000 SAC Decision, in the sense that petitioner will pay nothing at all to respondents, is an impossibility, considering the constitutional mandate that just compensation be paid for expropriated property. The posting of the required bond, to our mind, adequately insulates the petitioner against any injury it may suffer if the SAC determination of just compensation is reduced.

Suffice it to say that, given the particular circumstances of this case, along with the considerable bond posted by respondents, the assailed SAC Order of December 21, 2000 and the Decision of the Court of Appeals dated July 29, 2002 are justified.

WHEREFORE, the Decision of the Court of Appeals dated July 29, 2002 is AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Reyes, JJ., concur.

[1] Comment of Hon. Venancio J. Amila, Presiding Judge of RTC, Branch 3, Tagbilaran City, as nominal party

on the petition for certiorari and prohibition of Land Bank of the Philippines before the Court of Appeals; rollo, pp. 117-118.

[2] Rollo, pp. 21-54.

[3] Id. at 55-62.

[4] Id. at 101.

[5] Id. at 85-90.

[6] Id. at 90.

[7] Id. at 91-92.

[8] Id. at 94-98.

[9] 327 Phil. 1047 (1996).

[10] 319 Phil. 246 (1995).

[11] Id. at 99-100.

[12] Id. at 101.

[13] Id.

[14] Id. at 102-105.

[15] Id. at 110.

[16] Id. at 106-107.

[17] Id. at 108-109.

[18] Id. at 64-84.

[19] Id. at 111-116, 117-118, respectively.

[20] Supra note 9.

[21] SEC. 16. Procedure for Acquisition of Private Lands - For purposes of acquisition of private lands, the following procedures shall be followed:

(a)

After having identified the land, the landowners and the beneficiaries, the DAR shall send its notice to acquire the land to the owners thereof, by personal delivery or registered mail, and post the same in a conspicuous place in the municipal building and barangay hall of the place where the property is located. Said notice shall contain the offer of the DAR to pay a corresponding value in accordance with the valuation set forth in Sections 17, 18, and other pertinent provisions hereof.

(b)

Within thirty (30) days from the date of receipt of written notice by personal delivery or registered mail, the landowners, his administrator or representative shall inform the DAR of his acceptance or rejection of the offer.

(c)

If the landowner accepts the offer of the DAR, the LBP shall pay the landowner the purchase price of the land within thirty (30) days after he executes and delivers a deed of transfer in favor of the Government and surrenders the Certificate of Title and other muniments of title.

(d)

In case of rejection or failure to reply, the DAR shall conduct summary administrative proceedings to determine the compensation for the land by requiring the landowner, the LBP and other interested parties to submit evidence as to the just compensation for the land, within fifteen (15) days from the receipt of the notice. After the expiration of the above period, the matter is deemed submitted for decision. The DAR shall decide the case within thirty (30) days after it is submitted for decision.

(e)

Upon receipt by the landowner of the corresponding payment or in case of rejection or no response from the landowner, upon the deposit with an accessible bank designated by the DAR of the compensation in case or in LBP bonds in accordance with this Act, the DAR shall take immediate possession of the land and shall request the proper Register of Deeds to issue a Transfer Certificate of Title (TCT) in the name of the Republic of the Philippines. The DAR shall thereafter proceed with the redistribution of the land to qualified beneficiaries.

(f)

Any party who disagrees with the decision may bring the matter to the court of proper jurisdiction for final determination of just compensation.

[22] *Heirs of Macabangkit Sangkay v. National Power Corporation*, G.R. No. 141447, May 4, 2006, 489 SCRA 401, 417.

[23] *Confederation of Sugar Producers Association, Inc. v. Department of Agrarian Reform (DAR)*, G.R. No. 169514, March 30, 2007, 519 SCRA 582, 636; *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, G.R. Nos. 78742, 79310, 79744, 79777, July 14, 1989, 175 SCRA 343, 386.

[24] *Land Bank of the Philippines v. Court of Appeals*, supra note 20, at 1053-1054.

[25] Summary of circumstances per documentary and testimonial evidence presented by both parties; RTC Decision dated November 20, 2000; rollo, pp. 86-87.

[26] *Apo Fruits Corporation v. Court of Appeals*, G.R. No. 164195, December 19, 2007, 541 SCRA 117, 142.

[27] *Apo Fruits Corporation v. Court of Appeals*, G.R. No. 164195, February 6, 2007, 514 SCRA 537, 558.

[28] *Id.* at 557-558; *Land Bank of the Philippines v. Court of Appeals*, supra note 20.

[29] Rollo, p. 119.

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